HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1161 of 2006

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Between:

Balamba National Social Organization for Manava Seva
bearing Regd.No.982/2002

……Appellant

And

The Joint Collector – I,
Ranga Reddy District,
Lakdikapool, Hyderabad and two others

……Respondents

:: JUDGMENT ::

Counsel for the Appellant : Shri M.Ramakanth for
Shri M.S.N.Prasad

Counsel for Respondent Nos.1 and 2 : Government Pleader
for
Agriculture.

Counsel for Respondent No.3 : Smt. Bobba Vijayalakshmi

November 02, 2006

Per G.S. SINGHVI, C.J.

Having failed to persuade the learned Single Judge to nullify the decision of the respondents to demand a sum of Rs.3,000/- per month for maintenance of a toilet block at Rythu Bazar, Kukatpally, Ranga Reddy District, the appellant has filed this appeal under Clause 15 of

the Letters Patent.

Rythu Bazars were set up by Government of Andhra Pradesh with a view to avoid the middlemen between the farmers and the consumers. In Ranga Reddy District, seven such Rythu Bazars have been set up at a cost of more than Rs.50 lakhs each. Facilities like shops, water and electricity connections, parking, canteen and toilet blocks have been provided in every Rythu Bazar. Initially, these facilities were made available to the users free of cost. The maintenance of toilet blocks was given to self-help groups and voluntary organizations free of cost. In January, 2003, the toilet block of Rythu Bazara at Kukatpally was given to the appellant for the purpose of maintenance. In turn, the appellant charged fixed amount from the users.

In the year 2005, the State Government decided that shops, parking spaces, canteen and toilet blocks of Rythu Bazars be leased out on monthly rental basis and the income generated by this process be used to meet the recurring expenditure i.e., salaries of Estate Officers, supporting staff, payment of electricity and water charges and also for cleaning and lifting the garbage on day-to-day basis. In furtherance of that decision, Joint Collector, Ranga Reddy District fixed the monthly rent of these facilities. Initially, nominal rent was charged from the existing organizations, who were till then maintaining the facilities without paying any rent and were collecting the user charges from the public. On 31-5-2005, the Joint Collector issued Proceedings No.B/RBZ/233/2004-05 for levy of maintenance charges at the rate of Rs.1,000/- from the appellant. Subsequently, this amount was enhanced to Rs.3,000/- per month.

The appellant challenged the decision of the respondents to levy maintenance charges at the rate of Rs.3,000/- per month by asserting that the same was highly arbitrary, unreasonable and unjustified. In the affidavit filed on behalf of the appellant, it was pleaded that being a

non-profit making organization, it cannot be saddled with the liability of Rs.3,000/- per month towards maintenance charges. In the counter filed by Sri V.Yellaiah, Assistant Director of Marketing, Ranga Reddy District, it was averred that due to the appellant's disinclination to pay maintenance charges at the rate of Rs.3,000/- per month, toilet block of Bazar at Kukatpally was allotted to Sri Sai Sanitation Social Service Organisation, Hyderabad in February, 2006. In paragraph 3 of his affidavit, Sri V. Yellaiah averred that the petitioner (appellant herein) had been generating sufficient income by collecting user charges since 2003. For the sake of reference, paragraphs 2 and 3 of the affidavit of Shri V. Yellaiah are reproduced below:

> "2. In reply to para (2), it is submitted that the Rythu Bazaars were setup by the Government to avoid the Middlemen in between Farmers and Consumers for which (7) Rythu Bazaars were constructed in Ranga Reddy District with a cost of more than Rs.50.00 lakhs for each Rythu Bazaar in which, same facilities like shops, water connection, electrification, parking block, canteen block and toilet blocks have been provided spending huge amount from Marketing Department as per the Government sanctions. Initially these facilities were provided on free of cost to the users of the Rythu Bazaar similarly the Toilet Block given to the Self-Help Groups and Voluntary Organizations on free of cost. In the year 2005 the Government has instructed that, all Rythu Bazaar should be identified the income source by way of allotting the shops, parking, canteen & toilets on monthly rental basis to get income to the Rythu Bazaars to meet the recurring expenditure i.e., Salaries of Estate Officer, Supporting Staff and payment of Electricity & Water charges and also cleaning & lifting of Garbage day to day. Accordingly, the Joint Collector-I, Ranga Reddy District has fixed the monthly rent to all above mentioned blocks. Initially the nominal rent is being collecting form the existing maintainers who were enjoining without paying any rent for last several years by collecting user charges from the users. In the month of February, 2006 this maintenance of the toilet block at Rythu Bazaar Kukutpally has been allotted to Sri Sai Sanitation Social Service Organization, Hyderabad on a monthly rent of Rs.3,000/- per month. Before allotting this maintenance to Sri Sai Sanitation Social Service Organization, Hyderabad. A

request has been made to the existing maintenance of toilets to pay Rs. 3,000/- per month as the rental charges of Toilet blocks, which was enhanced from Rs. 1,000/- to Rs. 3000/- per month. But, the then maintainer i.e., (petitioner) has said, that much amount I will not pay as a rent per month. After taking his opinion the allotment made to Sri Sai Sanitation Social Service Organization, Hyderabad on increase the revenue source to the Rythu Bazaar.

3. In reply to para (3 & 4) it is submitted that the petitioner stated that, his organization is non profit motive and non-Govt. Organization it is not correct. The petitioner is collecting following user charges from users.

For Men		***For Women***	
1) Bathing	Rs. 7.00	1) Bathing	Rs. 7.00
2) Toilet	Rs. 2.00	2) Toilet	Rs. 3.00
3) Urine	Free of cost	3) Urine	Rs. 1.00

By collecting user charges from the users he getting income every day and making profit without paying any rent to Rythu Bazaar since 2003."

The learned Single Judge dismissed the writ petition by observing that the decision of the respondents to levy maintenance charges does not violate any of the legal or fundamental right of the petitioner. The learned Single Judge further held that the writ petitioner cannot complain against the levy of maintenance charges because it was collecting user charges from the members of the public.

We have heard Sri M.Ramakanth, learned counsel for the appellant and carefully scanned the record. It is neither the pleaded case of the appellant nor its learned Advocate argued that the allotment of the maintenance work of toilet block at Rythu Bazar, Kukatpally is regulated by any statute or that the decision taken by the respondents to allot the block in its favour was preceded by any advertisement or public notice. It is, thus, evident that the appellant was awarded maintenance work without following any procedure in consonance with the doctrine of equality enshrined in Article 14 of the

Constitution. This being the position, the appellant cannot be heard to complain against the policy decision taken by the respondents to levy maintenance charges on the self-help groups and voluntary organizations, which, in turn, levy user charges on the public.

We are further of the view that the allotment of maintenance work to the appellant in January, 2003 free of cost did not create a right in its favour to continue to enjoy the benefit for an indefinite period and the post-allotment decision taken by the respondents to levy maintenance charges to meet the varied expenses including electricity and water cannot be termed as arbitrary or unreasonable warranting judicial intervention.

With the above observations, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.2419 of 2006 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, C.J.

2nd November, 2006.

C.V.NAGARJUNA REDDY, J.

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